UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

RICKEY BENSON,)	
Plaintiff,)	
)	
VS.)	No. 2:23-cv-2582-SHM-tmp
)	
CHIEF JAILER KIRK FIELDS AND)	
SUBORDINATES,)	
)	
Defendants.)	

ORDER DISMISSING CASE; CERTIFYING THAT AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH; NOTIFYING BENSON OF THE APPELLATE FILING FEE; NOTIFYING BENSON OF THE COURT'S STRIKE RECOMMENDATION UNDER 28 U.S.C. § 1915(g);AND CLOSING CASE

On September 14, 2023, Rickey Benson, who is a three-strike filer under § 1915(g) of the Prison Litigation Reform Act, 28 U.S.C. §§ 1915, *et seq.* (the "PLRA"), filed: (1) a *pro se* civil complaint under 28 U.S.C. § 1983 (ECF No. 1); (2) a motion to proceed *in forma pauperis* (ECF No. 2 (the "IFP Motion")); and (3) "motion(s) for the Court to order [an] F.B.I. investigat[ion] [of] cells at Shelby County Jail [the "SCJ"]." (ECF No. 3) On April 9, 2024, the Court (1) dismissed the complaint without prejudice pursuant to 28 U.S.C. § 1915(g). (ECF No. 9 (the "April 9 Order").) The Court notified Benson that the case would be re-opened if Benson filed a motion to re-open within twenty-eight (28) days, accompanied by the four hundred and five dollar (\$405.00) civil filing fee. (*Id.* at PageID 23.) The Court warned Benson that if he failed to timely comply, the case would be dismissed with prejudice and judgment entered without further notice. (*Id.*)

On April 19, 2024, Benson filed a notice of appeal about the April 9 Order with the United

States Court of Appeals for the Sixth Circuit. (ECF No. 10 (the "NOA").) On August 1, 2024,

the Sixth Circuit entered an order that dismissed Benson's appeal for want of prosecution. (ECF

No. 12 at PageID 30.)

Benson's deadline to file a motion to re-open Case No. 23-2582 and submit the civil filing

fee was Tuesday, May 7, 2024. (See ECF No. 9 at PageID 23.) Benson has not filed a motion to

re-open the case and has not sought an extension of time to do so.

For these reasons, the Court DISMISSES this case with prejudice in its entirety for the

reasons discussed in the April 9 Order. (ECF No. 9.) Judgment will be entered in accordance with

the April 9 Order.

The Court RECOMMENDS that this dismissal should be treated as a strike pursuant to 28

U.S.C. § 1915(g). See Simons v. Washington, 996 F.3d 350, 353 (6th Cir. 2021).

Pursuant to Federal Rule of Appellate Procedure 24(a) and 28 U.S.C. § 1915(a)(3), it is

CERTIFIED that any appeal in this matter by Benson would not be taken in good faith. If Benson

nevertheless chooses to file a notice of appeal, Benson must either pay the entire six hundred and

five dollars (\$605.00) appellate filing fee or submit a new in forma pauperis affidavit and a current,

certified copy of his inmate trust account statement for the last six months, in compliance with 28

U.S.C. §§ 1915(a)-(b).

The Clerk is directed to mark this case closed.

IT IS SO ORDERED, this 9th day of August, 2024.

/s/ Samuel H. Mays, Jr.

SAMUEL H. MAYS, JR.

UNITED STATES DISTRICT JUDGE

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